growth, it has not presented any data to disprove our assertions that such a demand set will result in double-counting. See the further discussion in Section III.(b). below.

- Bell Atlantic has generally overstated exogenous costs: It appears to have attempted to quantify any and all costs associated with the provision of 800 service and designated them as "exogenous".

- Bell Atlantic includes Local STP (LSTP) to Remote STP (RSTP) links in its exogenous cost development.[14] As discussed in more detail in Section III.(a). below, these links should be treated either as basic network components or as core SS7 costs and should not be accorded exogenous status.

- Bell Atlantic has attributed excess SCP costs to 800 data base exogenous costs. Bell Atlantic includes the cost of *shared* SCPs in its exogenous cost development, and does not account for any future modifications to the uses of the existing SCPs for other services. See Section III.(a). below for a more detailed discussion of *shared* SCP costs.

- Bell Atlantic has inappropriately included costs associated with Local STPs and Remote STPs based upon the relative use of the STP transport links used to transport 800 traffic. These are costs that should properly be considered as core SS7 costs.[15] See discussion in Section III.(a). below.

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[14] See *Direct Case*, Appendix B, p. 5.

[15] Allocating a fraction of the investment associated with LSTPs and RSTPs that would exist with or without the 800 data base is without question inappropriate and completely inconsistent with the spirit and language of the *Rate Structure Order*.

ECONOMICS AND TECHNOLOGY, INC.

- Bell Atlantic has included *future* LSTP investment that would be incurred to meet future growth in 800 demand (and perhaps the introduction of still other new services) in the development of the LSTP exogenous costs identified above. Since capacity additions and facility modernizations are normal events and are subsumed in the Price Caps formula, it is inappropriate to include such future facilities in any calculations of exogenous costs.

- Bell Atlantic has attempted once again to justify the inclusion of overhead in its exogenous costs. While it may be true that implementation of the data base caused a flurry of activity, it would have been activity similar in nature to the "basic" SS7 investment that the Commission specifically declined to treat as exogenous. See the discussion in Section III.(a). below.

- Bell Atlantic has inappropriately identified a wide variety of one time and on-going non-capital expenses as exogenous. Included are some $2.1-million in expenses related to the "800 Repair Center."[16] Bell Atlantic's justification for this and its other expenses is not compelling and does not meet the required burden of proof for exogenous costs. See the discussion in Section III.(a). below.

c. *Bell South*

Like the other LECs whose cases we review here, Bell South's Direct Case submission fails to support the Company's 800 Data Base tariff.

[16] See Bell Atlantic's *Supplemental Filing*, p. 6.

- Bell South includes Local STP (LSTP) to Remote STP (RSTP) links in its exogenous cost development.[17] As discussed in more detail in Section III.(a). below, these links should be treated either as basic network components or as core SS7 costs and should not be accorded exogenous status.

- Bell South affords land and building costs associated with the SCPs exogenous treatment.[18] Bell South has not provided any data, however, that indicates that the overall level of its land and building expense has in any manner been impacted by the implementation of 800 data base service.

- Bell South inappropriately treats SSP software costs as exogenous and fails to meet the required burden of proof as to why those costs should be exogenous. Bell South's justification is limited to the following statement. "This software provides the capability to process 800 queries and responses and is specific to the 800 Data Base Access Service."[19]

- Bell South has inappropriately included costs associated with 800 data base port terminations on Local and Regional STPs as exogenous.[20] These are costs that should properly be considered as core SS7 costs.

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17 See *Direct Case*, 3

18 *Id.*, p. 2.

19 *Id.*, Exhibit 3, p. 2.

20 *Id.*

d. NYNEX

Like the other LECs whose cases we review here, the Direct Case submissions of the NYNEX Telephone Companies (NTCs) fail to support the Companies' 800 Data Base tariffs. NYNEX overstates the exogenous costs associated with the 800 data base, uses an inappropriate demand set for developing the prices associated with the data base service, and fails to provide the Commission with all of the information required as part of the Direct Case investigation. Additionally, the tremendous variation between the exogenous costs developed by NYNEX in its original tariff filing of March 1, 1993 (the exogenous costs that should have been supported by the Direct Case filing), and the latest exogenous cost estimate contained in the March 15, 1994 filing, is so great as to call the entire process use by NYNEX into question. The major problems specifically identified in NYNEX's filing are as follows:

- NYNEX failed to comply with the requirements of the *Designation Order*. A revised version of the *Designation Order*'s "Appendix B" should have been filed along with the revised exogenous cost estimates included with the March 15, 1994 "Compliance Filing".

- NYNEX provided insufficient data to allow full understanding or evaluation of the data included in its filing. For example, the "Compliance" filing indicates that "total booked SCP investment for NYT and NET" was used to develop SCP costs, and goes on "[I]t should be noted that 800 Data base SCPs in NYNEX are not currently supporting any other service.[21] Thus the entire SCP investment is considered related to 800 data

[21] See NYNEX *Compliance Filing*, p. 1.

base." In it's September 1993 Direct Case, however, NYNEX indicated that some SCP investment *was* being used to support LIDB service, but that all LIDB service was presently being processed out of a separate set of SCPs.[22] What is not clear from NYNEX's filing is if the "total booked SCP investment" is only for the two existing 800 data base SCP pairs, or if it is the "total booked SCP investment" for the three existing SCP pairs, which would include the LIDB SCP. If the total cost associated with the SCPs were presented in some greater detail than the single line entry of "SCP" found on the "Compliance" worksheet EXG 1-1, such questions might not exist.

- NYNEX has allocated 800 data base exogenous costs between the interstate and intrastate jurisdictions on a relative use basis, rather than using Part 36 of the Commission's rules. As discussed in Section III.(a). below, this methodology results in an *overstatement* of interstate exogenous costs.

- NYNEX uses a five year levelized demand to calculate exogenous costs: This will have the effect of *double-counting* future demand growth. Although it has attempted to justify its use of this demand set as a reasonable approximation of real demand growth, it has not presented any data to disprove our assertions that such a demand set will result in double-counting.[23] See the further discussion in Section III.(b). below.

- NYNEX includes Local STP (LSTP) to Remote STP (RSTP) links in its exogenous cost development. As discussed in more detail in Section III.(a). below, these links should be

[22] See NYNEX *Direct Case*, pp. 4 - 5.

[23] *Id.*, p. 11.

treated either as basic network components or as core SS7 costs and should not be accorded exogenous status.

- NYNEX has attributed excess SCP costs to 800 data base exogenous costs. First, NYNEX may have included "total booked SCP investment" for all of its SCPs in its development of exogenous costs even though one of its three SCP pairs is presently dedicated to LIDB service and does not provide 800 data base service what so ever. Secondly, the costs are overstated even if they exclude the present LIDB SCP pair. NYNEX justified inclusion of the total investment because "800 data base SCPs in NYNEX are not *currently* supporting other service." (*emphasis supplied*). However, NYNEX indicated in its September, 1993 filing that it planned to "introduce LIDB functionality" into the NET SCP pair.[24] Therefore, although the SCP pair may have initially been dedicated to 800 data base, the future use of the SCP pair will include other services.[25] See Section III.(a). below for a more detailed discussion of *shared* SCP costs.

When required to "disclose" its cost data as part of this investigation, NYNEX's "exogenous" costs for data base service declined by approximately one third. As observed above, the sketchy information provided by NYNEX still does not allow full evaluation of exactly what is included in the latest exogenous cost calculations. It seems quite reasonable

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[24] *Id.*, Attachment A, p. 4.

[25] This Commission has long recognized the problems generated by use of a single facility for multiple purposes. The situation that arises with the depreciation of plant that is used primarily for *regulated* services in the early years of its life, and for *non-regulated* services in later years provides an interesting analogy to the situation at hand. Use of a treatment such as the depreciation "three year best use rule" might well be appropriate in this instance.

that if forced to "disclose" still more about its data, NYNEX's exogenous cost estimate would decline still further.

e. Pacific Bell

Like the other LECs whose cases we review here, the Direct Case submission of Pacific Bell and Nevada Bell (herein after referred to simply as "Pacific") fails to support the Companies' 800 Data Base tariffs.

- Pacific Bell has inappropriately included nearly $7.62-million in exogenous costs allegedly related to tandem switch upgrades, maintaining that these upgrades are necessary to provision 800 data base service.[26] While being necessary to the provision of 800 data base certainly is one of the prerequisites for exogenous treatment, that alone is not enough. As discussed in Section III.(a). below, capacity additions and facility modernizations are normal events and are subsumed in the Price Caps formula, it is inappropriate to include such future facilities in any calculations of exogenous costs. In the instant case, it is quite possible that the upgrade of these tandems would have occurred as part of Pacific's ongoing switch modernization plans, regardless of whether the 800 data base existed. Pacific has not met the burden of proving that these cost require exogenous treatment.

- Pacific has not used Part 36 to allocate costs between the interstate and intrastate

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[26] See, Pacific Bell *Direct Case* of September 20, 1993, pp. 10 - 11.

jurisdiction.[27] Rather, costs have improperly been allocated based upon relative use, as discussed below in Section III.(a)., such an allocation results in excess costs being assigned to the interstate jurisdiction.

f. Southwestern Bell

Like the other LECs whose cases we review here, the Direct Case submission of Southwestern Bell fails to support the Company's 800 Data Base tariff.

- Southwestern Bell failed to comply with the requirements of the *Designation Order*. The separations results included on "Appendix B" failed to include results for anything but the interstate 800 category.

- Southwestern Bell allocates the total investments in shared use SCPs based upon the relative percentage of 800 data base queries to total queries.[28] Even assuming that a straightforward allocation based upon existing demand patterns were correct, Ameritech's allocation methodology would only be appropriate if the costs associated with the use of the facilities were identical for both 800 data base and LIDB queries. SWB has not presented any information that indicates that this is the case, or that it has even investigated the matter.

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[27] *Id.*, p. 12.

[28] See, *Direct Case,* p. 8. SWB created a 1992 count of 800 "queries" based upon 800 minutes of use. No information was provided on how the translation from *minutes* to *queries* was accomplished.

- Southwestern Bell has attributed excess SCP costs to 800 data base exogenous costs. SWB includes the cost of *shared* SCPs in its exogenous cost development, and does not account for any future modifications to the uses of the existing SCPs for other services. See Section III.(a). below for a more detailed discussion of *shared* SCP costs.

- Southwestern Bell has inappropriately included SSP investment in its exogenous cost calculations.[29] Absent compelling justification, (which SWB has not provided) such costs are appropriately classified as "core SS7" costs. SWB indicates that software RTUs "were incurred so that an 800 query and response could be generated", but does not provide information detailing why it is that those RTU fees should be specifically assigned to 800 data base. SWB's presentation does not make it possible to ascertain whether the necessary software contains functionalities beyond those required for 800 data base, whether this capability will be used for other services in the future. Not does it address the possibility that the software could have been scheduled for implemented at some point in the future regardless of the existence of the 800 data base. SWB's burden of proof relative to SSP RTU expenses has not been met.

- SWB indicates that investments were allocated between the state and federal jurisdiction using Part 36. However, *SMS expenses* were improperly allocated based upon relative use rather than Part 36, resulting in an overallocation of SMS expenses to the interstate jurisdiction.

g. US West

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[29] *Id.*, p. 7.

US West's Direct Case submission also fails to support the Company's 800 Data Base tariff.

- US West failed to comply with the requirements of the *Designation Order*. A completely revised version of the *Designation Order*'s "Appendix B" should have been filed along with the revised exogenous cost estimates included with the March 15, 1994 "Compliance Filing".

- US West improperly allocates shared SCP investment based upon current use of the service without any reference to possible future shifts in the relative use of the facilities, or the introduction of other new services to the SCP. It is stated that "25% of the shared pair is allocated to 800 data base service, based upon engineering studies conducted on 800 queries versus LIDB queries."[30] No documentation on the nature or results of this study are provided.

- US West appears to have assumed that the SCP cost per query associated with 800 data base, LIBD, and Calling Name Delivery are identical,[31] although no justification for that assumption is provided.

- US West proposes to improperly maintain the price for its Call Handling and Destination (CH&D) vertical feature at a level substantially below (more than 75%) the direct cost it

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30 See *Supplement to Direct Case*, Appendix A, Section II, p. 1.

31 See *Direct Case*, pp. 7 - 8.

has developed for this service.[32] US West estimates that 95% of all of demand for vertical features will be for the CH&D feature. Commission rules do not allow the pricing of new services at a level below the direct cost of those services.

III. General Discussion of Direct Case Materials

Issue 3: The reasonableness of the price cap LECs' 800 data base rates.

The Direct Case materials supplied by the Price Caps LECs in Docket 93-129 do not demonstrate any more clearly than the original tariff support materials that the 800 data base prices proposed by these LECs are just and reasonable.[33] In many cases, the record has not been added to or modified in any substantial manner. Even in those cases in which the LECs may have in fact supplemented the record in a meaningful manner, that supplemental material does nothing to bolster LEC arguments that particular treatments are just and reasonable. *To put it simply, a detailed discussion of the methodology and weightings used to depart from the Commissions rules does not make that departure any more legitimate.* The following contains discussions relative to specific LEC Direct Case findings identified above as they relate to the *Issue 3* "Subissues" identified in the *Designation Order*. These discussions are illustrative of the types of problems that we found to be pervasive in the materials filed in this Docket.

a. Subissue A: Are the exogenous costs claimed by the price caps LECs reasonable?

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[32] See *Supplement*, Attachment D.

[33] Direct Cases were filed on September 20, 1993. Supplements to the Direct Case were filed by a number of carriers on March 15, 1994.

For virtually all of the LECs filing Direct Case materials in this proceeding the answer to this question is, at least in part, no. The largest problems still remaining in the area of exogenous cost development is the attribution of many costs to the 800 data base that the Commission specifically found not to be exogenous in the *Rate Structure Order*.[34] Despite a facial attempt by the carriers to justify the additional exogenous costs that have been attributed to 800 data base service, *none* has met the required burden of demonstrating "that such additional costs are incurred specifically for the implementation of basic 800 data base service."[35]

Inclusion of overhead costs

As a result of the Commission's ruling in the *800 Data Base Access Tariff Order*[36], the LECs have been required to remove overhead loadings from the development of exogenous costs. However, in their September 20 filings SNET and Bell Atlantic make a rather weak attempt to justify inclusion of overhead loadings stating that since 800 services cause overhead costs to be incurred, overheads are appropriately treated as exogenous. The problem with this logic is that it fails to address the fact that 800 services caused overheads

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[34] *Rate Structure Order*, 8 FCC Rcd at 911.

[35] *Id.* The full reference is to paragraph 28 that states as follows: "[E]xogenous treatment will extend to those costs *incurred specifically for the implementation of basic 800 data base service*. Those costs which are not reasonable and which are not specifically incurred for the implementation and operation of the 800 data base system, such as core SS7 costs, will not be afforded exogenous treatment. Nor will the costs of accelerating SS7 deployment to meet our implementation timetable be granted exogenous treatment. We anticipate that exogenous treatment will be accorded to those costs associated with: Service Control Points (SCPs), the Service Management System (SMS), and links between SCPs and the SMS, as well as between Signal Transfer Points (STPs) and SCPs, to the extent such costs are directly attributable to 800 data base service. Other expenses may also qualify for exogenous treatment, but as with all of these requests for exogenous treatment, the burden is on the LECs to demonstrate that such additional costs are incurred specifically for the implementation of basic 800 data base service."

[36] *800 Data Base Access Tariff Order*, 8 Rcd at 3244.

prior to the implementation of the 800 data base as well. While it may be true that implementation of the data base required a flurry of activity, it would have been activity similar in nature to the "basic" SS7 investment that the Commission specifically declined to treat as exogenous.[37] Additionally, neither carrier has demonstrated that the amount of overhead expenses that would be caused by data base 800 service are in any respect greater than the overheads that would have been caused by the pre-existing 800 service, or that total company overhead expenses are any greater then they would be absent 800 data base.[38] The burden of proving that overheads should be granted exogenous treatment clearly has not been met, and overheads should not be allowed in exogenous cost development.

Inclusion of "shared" SCP costs

Ameritech, Bell Atlantic, Bell South, Pacific Bell, Southwestern Bell, and U.S. West all treat the investment associated with both dedicated and *"shared"* SCPs as exogenous. In general, the entire investment associated with the carriers' SCPs are allocated between 800 data base and other services (generally LIDB) on what amounts to a relative use basis. There are two problems with this approach.

First, the allocation of SCP investment based upon current use of the facilities ignores ***future*** uses of the SCP. LIDB and 800 data base are but two of the multiple uses to which SCPs may be put in the future. Therefore, while whole SCPs may be dedicated to or used primarily for 800 data base services today that may well change in the future.

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[37] Similar also to the costs associated with speeding the implementation of SS7.

[38] Even with such a showing it is not clear exogenous treatment would have been appropriate.

NYNEX, for example, allocates 100% of NET's SCP pair to 800 data base because this is the only service provided out of the SCP today. NYNEX clearly indicates its intent to begin offering LIDB service out of that SCP in the near future.[39] While specific statements relative to plans to introduce additional services, or statements relative to expected changes in demand in SCPs are not included in the Direct Case materials of other carriers, the problem is every bit as relevant. The SCP exogenous costs developed by Ameritech, Bell Atlantic, Bell South, and US West are all flawed in the same manner.[40]

The second problem with this methodology is that it appears that most of the carriers have based the SCP allocations upon straight counts of queries, This assumes that the cost imposed upon an SCP are identical for 800 data base, LIDB, and other service queries. No evidence has been presented that these queries are in fact identical, and there is no reason to believe they are. The filings of Ameritech, Bell Atlantic, Bell South and US West also contain this flaw.

It can also be argued that inclusion of *any* costs associated with "shared" SCPs inappropriate: Only the costs associated with "dedicated" SCPs can be determined to have been incurred solely for 800 data base service. An example from U.S. West's Direct Case demonstrates the problem very clearly. U.S. West begins by indicating that there are two SCP pairs in its territory: one devoted to 800 data base, one supporting 800 data base and

[39] NYNEX *Direct Case*, Attachment A, p. 4.

[40] As discussed above, the Commission may want to use something similar to the "three year best use" rule used in depreciation for identifying appropriate exogenous costs in this instance.

LIDB. 25% of the shared pair is allocated to 800 data base based upon traffic utilization.[41] The allocation of 25% of the second shared pair to 800 data base is not in keeping with the requirements of the *Rate Structure Order*, wherein it is stated that "exogenous treatment will extend to those costs *incurred specifically for the implementation of 800 data base service.*" Clearly, an SCP on which 75% of the queries are for LIDB service would exist even absent the 800 data base, and the costs associated with that SCP were not "incurred specifically for the implementation of 800 data base service." It can be argued that the investment associated with this second SCP pair should not be granted exogenous treatment. The concerns expressed here relative to the allocation of shared SCP facilities applies to U.S. West's development of Tandem Switch and SSP costs as well.

Inclusion of costs for facilities that would still exist absent the 800 data base

Contrary to the policy set forth in the *Rate Structure Order*, Ameritech, Bell Atlantic and Bell South have included Local STP (LSTP) investment, Remote STP (RSTP) investment, or both in their exogenous cost development. An allocation to the 800 data base of LSTP and RSTP investment is made based upon the relative use of the STP transport links used to transport 800 traffic. This treatment is completely inconsistent with the spirit or language relative to the development of exogenous costs found in the *Rate Structure Order*. There is no question but that the only costs that would be granted exogenous treatment were those specifically incurred for the 800 data base. Allocating a fraction of the investment associated with LSTPs and RSTPs that would exist with or without the 800 data base is without question inappropriate.

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[41] See, *Supplement to the Direct Case of U.S. West Communications, Inc.*, filed March 15, 1994, Appendix A, Section II Methodology.

Inclusion of non-capital expenses that have not been demonstrated to have been new as a result of the data base

Various non-capital related expenses are inappropriately included by a number of the LECs in their filings: These expenses are generally justified by the explanation that they "were also incurred for the May 1, 1993 provisioning of the basic query for 800 Data Base Access."[42]

In these instances all of the expenses are represented as being related to the provision of 800 Data Base Access service, but the LECs in question have not met any kind of burden of proof that these costs should be attributed exogenous treatment. The Bell Atlantic example that follows represents but one of seven separate categories of what Bell Atlantic has designated as 800 Data Base Access Service non capital costs. The criticisms developed in the example below are equally applicable to all seven categories of "non-capital" costs identified by Bell Atlantic. All of Bell Atlantic's "non-capital" costs should be denied exogenous treatment.

Bell Atlantic's Supplemental Filing Workpaper 7 details $2.1-million in expenses related to the "800 Repair Center". The justification for the $2.1-million is the following description: "operating costs for the 800 Repair Center in Bridgewater, New Jersey. This center handles repair calls from interexchange carriers and from other customers unable to complete an 800 call."[43] It is unclear why the handling of 800 repair calls should be granted exogenous treatment. Presumably, Bell Atlantic received calls from interexchange

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[42] See, for example, *Supplement to Direct Case of Bell Atlantic*, pp. 4 - 6.

[43] *Id.*, p.6

carriers and customers unable to complete 800 calls prior to the implementation of the data base, and that function is encompassed in the revenue collected under the present price caps plan. In it's earlier Direct Case, BAIL indicated that the "800 Repair Center" was opened specifically in conjunction with the 800 data base and points to the fact that "it is far more complicated to deal with trouble reports in a database environment."[44] That may be true, however, it seems virtually certain that 800 repair calls were handled from either a centralized repair office, or a different 800 center previously. Despite the fact that the "800 Repair Center" may be new, Bell Atlantic has not provided any analysis of the costs that were being incurred previously to respond to 800 service complaints, or indicated that the "800 Repair Center" costs it includes in its exogenous cost development are somehow "additive" to the costs it was incurring before.[45] Even more importantly though, Bell Atlantic tells us that "[f]or this reason [increased complexity], *and because of the increasing importance of 800 services to carriers and end users*, Bell Atlantic has established a consolidated repair center."[46] Bell Atlantic's 800 Repair Center costs clearly *do not* deserve exogenous treatment.

In a similar vein, Ameritech has included expenses associated with computer software and maintenance for SCP computers. Ameritech demonstrates that the expenses are associated with 800 data base service, but not that they deserve exogenous treatment.

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[44] Bell Atlantic *Direct Case,* App. C.

[45] In many respects this can be viewed as similar to the issue of the inclusion of overhead costs. Overhead costs were disallowed because the expenses associated with overheads were already included within the Price Caps revenue streams. In the instant case, the same is true of "expenses" that may well be associated with the provision of 800 data base service, but that existed prior to the implementation of the data base (even if in a different form).

[46] *Ibid.* (emphasis added)

Software expenses developed by Ameritech, Bell Atlantic, Bell South and Southwestern Bell for SSP RTUs and programming changes to facilitate the change from 6-digit to 3-digit number translation fall into the same category. For example, Southwestern Bell has included SSP RTU investment in its exogenous cost calculations.[47] Absent compelling justification, (which SWB has not provided) such costs should appropriately be classified as "core SS7" costs. SWB indicates that software RTUs "were incurred so that an 800 query and response could be generated", but does not provide information detailing why it is that those RTU fees should be specifically assigned to 800 data base. SWB's presentation does not make it possible to ascertain whether the necessary software contains functionalities beyond those required for 800 data base, or whether this capability will be used for other services in the future. Nor does it address the possibility that the software could have been scheduled to be implemented at some point in the future regardless of the existence of the 800 data base. SWB's burden of proof relative to SSP RTU expenses has not been met.

Inclusion of investments beyond those enumerated as "exogenous" in the Rate Structure Order without justification as to why they are appropriate

The *Rate Structure Order* specifically puts the burden of proving that costs associated with links between local and regional STPs deserve exogenous treatment squarely on the backs of carriers desiring exogenous treatment.[48] NYNEX includes just under $150,000[49] in exogenous costs for links between local and regional STPs, but fails to justify why those

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[47] Southwestern Bell *Direct Case*, p. 7.

[48] Among the questions enumerated in Appendix A to the *Designation Order* is the following "If signalling link costs between local STPs and regional STPs are included as exogenous costs, justify why those costs should be treated as exogenous costs" (Appendix A, Section IV.7.)

[49] NYNEX Compliance filing of March 15, 1994. Worksheet EXG 1-1.

costs should be treated as exogenous costs. Bell Atlantic and Bell South also include such links. As an example, Bell South justifies its exogenous treatment only by indicating that the links are required to carry additional 800 data base traffic and are thus "attributable" to the 800 data base. Such cursory statements hardly meet the test: there are any number of costs that could be viewed as somehow being "attributable" to the 800 data base that the Commission has specifically declined to grant exogenous treatment. Since these links are not included among the elements which the Commission specifically enumerated in Paragraph 28 of the *Rate Structure Order*, and since NYNEX, Bell Atlantic and Bell South either have chosen not to (or can not) justify those costs as specified in the *Rate Structure Order* and the *Designation Order* those costs should not be granted exogenous treatment.

Inclusion of costs associated with normal growth

Capacity additions and facility modernization are normal events in the business of an LEC and are subsumed within the generous Price Cap formula. Almost all of the capacity available in modern telco switches and in digital computer systems like SCPs and STPs is broadly *fungible* — i.e., usable to serve many telecommunications network functions and applications. That, however, has not stopped at least two of the LECs from attempting to treat these types of costs as exogenous. Attempts like those described below to include a portion of the investment associated with normal capacity additions and modernization to the 800 data base are wholly inappropriate.

Pacific Bell, for example, has included nearly $7.62-million in exogenous costs allegedly related to tandem switch upgrades, and while Pacific maintains that these upgrades are necessary to provision 800 data base service,[50] that alone is not enough to justify them for exogenous treatment. It is unclear whether these upgrades would not have occurred anyway, absent the 800 data base, as a result of Pacific Bell's announced plans to accelerate digital switching modernization by expending over $1-billion upgrading switching equipment.[51] Likewise, Bell Atlantic's proposed treatment of LSTP costs criticized above is made even more unreasonable by is its inclusion of future LSTP investment in the exogenous cost plan. The need for additional LSTP investment is likely related to future growth in demand, and perhaps the introduction of still other new services. Bell Atlantic has not provided any evidence that this type of growth is somehow outside of the normal growth and modernization plans that are contemplated under the Price Caps Plan.

Inclusion of overstated Interstate costs

Separation of investments undertaken to implement the 800 data base should be separated between the interstate and intrastate jurisdictions on the same basis as all other plant and equipment. In developing 800 data base exogenous costs, however, a number of carriers have separated costs based upon the relative proportion of the facility utilized for interstate service, rather than via Part 36 of the Commissions rules. Since the demand data presented by the LECs indicates that the vast majority of 800 data base calls are interstate in nature, a "relative use" allocation process for developing exogenous costs will result in a larger amount of the overall investment being recovered through interstate access prices than is actually allocated to the interstate jurisdiction. This is clearly inappropriate. Ameritech,

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[50] See, Pacific Bell *Direct Case* of September 20, 1993, pp. 10 - 11.

[51] See, *New York Times*, January 26, 1993, p.3. C-3.

Bell Atlantic, NYNEX, and Pacific Bell have all separated their 800 exogenous costs improperly. Southwestern Bell appears to have properly separated *investments* using Part 36, but has separated expenses on a relative use basis. All carrier's should be required to separate interstate and intrastate costs for their exogenous cost development using Part 36 of the Commission's rules.

b. Subissue B: Have the LECs used reasonable rate making methodologies in developing their basic query rates?

Among the problems identified in our initial analysis of the LEC's 800 data base tariffs in March of 1993 was the use of a five-year levelized demand assumption by a number of carriers.[52] In particular it was noted that mixtures of assumptions by LECs like Bell Atlantic and NYNEX would operate so as to permit larger than warranted Price Caps adjustments. As we stated at that time, the use of this demand set will have the effect of *double-counting* future demand growth: Demand changes are reflected once in the levelized five-year growth used to calculate exogenous costs, but demand growth will *also* be recognized as the carriers' Price Cap Indices are updated each year.

In the *Designation Order*, the Commission specifically requested that the local carrier's document the demand assumptions and methodologies used in developing both exogenous costs and prices. Nothing in the materials presented in any way discounts our earlier position that the use of a five-year levelized demand will result in double-counting. NYNEX and Bell Atlantic both provide discussions in their Direct Case submissions indicating that the

[52] Ibid., ETI Report.

use of five year levelized demand produces accurate "going-in" prices.[53] Neither has made any attempt to address our earlier assertions that use of this demand set will result in "double-counting" over the long term. We once again urge the Commission to require those LECs that utilized levelized demand forecast estimates that will result in double-counting to revise the manner in which costs and prices were developed.

IV. Conclusion

The Direct Case Materials supplied by the LECs in response to the *Designation Order* in Docket 93-129 do not justify either the full level of exogenous costs identified by those carriers, or, in many cases, the prices associated with basic queries and vertical features. We were quite pleased when the Commission refused to accept the inadequate level of data supplied by the carriers with their March 1, 1993 tariffs and instituted this investigation. However, the scant additional information provided in response to the investigation only serves to further frustrate any attempt to truly get behind the prices and exogenous cost levels proposed by each of the LECS. As stated above, we believe it essential that the Commission ensure that the proposed tariffs are fully in compliance with the Commission's rules. Through this investigation, LECs have been given a *second* chance to justify the inclusion of costs that do not obviously qualify for exogenous treatment. Our analysis shows that in both instances, the LECs have failed to meet their burden of proof.

[53] See NYNEX *Direct Case*, p. 11, Bell Atlantic *Direct Case*, p. 6, and Bell Atlantic *Supplemental Direct Case*, pp. 7 - 9.

CERTIFICATE OF SERVICE

I, Jo Ann Stephens, a secretary in the law firm of Gardner, Carton & Douglas, certify that I have this 22nd day of April, 1994, caused to be sent by first-class U.S. mail, postage-prepaid, a copy of the foregoing **COMMENTS ON DIRECT CASES** to the following:

Kathleen B. Levitz *
Acting Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 500
Washington, D.C. 20554

Gregory J. Vogt *
Chief, Tariff Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 518
Washington, D.C. 20554

Colleen Boothby *
Associate Chief, Tariff Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 518
Washington, D.C. 20554

ITS, Inc. *
1919 M Street, N.W., Room 246
Washington, D.C. 20554

Kerry E. Murray, Esq.
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, N.W.
P.O. Box 407
Washington, D.C. 20044

John C. Litchfield
Assistant Vice President
Tariff and Costs
Ameritech
2000 West Ameritech Center Drive
Location 4F08
Hoffman Estates, Illinois 60196-1025

Michael R. McCullogh
Director, Rates and Tariffs
External Affairs
Bell Atlantic Network Services, Inc.
One Bell Atlantic Plaza
1310 North Court House Road - 4th Floor
Arlington, Virginia 22201

Jacob J. Goldberg
Managing Director
Access Matters
NYNEX
Government Affairs
1828 L Street, N.W., Suite 1000
Washington, D.C. 20036

R. W. Fleming
Operations Manager
Pricing
BellSouth Communications
29G57 Southern Bell Center
675 West Peachtree Street, N.E.
Atlanta, Georgia 30375

A.E. Swan
Executive Director
Pacific Bell
140 New Montgomery Street
San Francisco, California 94105

Everett H. Williams
Director - Pricing and Tariffs
GTE Telephone Operations
600 Hidden Ridge, HQE02B20
P.O. Box 152092
Irving, Texas 75015

Glenn H. Brown
Executive Director
Public Policy
U.S. West Communications, Inc.
1801 California Street, Suite 4740
Denver, Colorado 80202

Larry W. Walther
Division Manager
Carrier Marketing
Southwestern Bell Telephone Company
One Bell Center, Room 7-Z-01
St. Louis, Missouri 63101

Rochelle D. Jones
Director - Regulatory
Southern New England Telephone
227 Church Street
New Haven, Connecticut 06510

Antonio Yaney
Executive Director
Tariff and Regulatory Matters
National Exchange Carriers Association
100 South Jefferson Road
Whippany, New Jersey 07981

Jo Ann Stephens

Jo Ann Stephens

* By Hand Delivery

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